



PATENT
Attorney Docket No. 115.0023-00000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
John I. Shipp
Serial No.: 10/706,715
Filed: November 12, 2003
For: SURGICAL LIGATION CLIP

Confirmation No.: 7246

Group Art Unit: 3731

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION UNDER 37 C.F.R. § 1.47(b) AND STATEMENT OF FACTS

The undersigned hereby petitions the Commissioner under 37 C.F.R. § 1.47(b) to accept the attached Declaration (showing the last known address of the inventor), which has been executed on behalf of the assignee due to the refusal of the inventor to sign such Declaration.

The pertinent facts regarding this matter are as follows:

The above-identified application is a non-provisional application based on Provisional Application 60/425,521, assigned to Surgicon, Inc. ("Applicant") by way of Assignment recorded on March 5, 2003 at Reel 013462 and Frame 0080. A copy of the Assignment is submitted herewith as Exhibit A, along with a Statement Under 37 C.F.R. § 3.73(b) and Power of Attorney to the undersigned from Surgicon, Inc.

The undersigned provided copies of the above-identified application and unexecuted Declaration to the Applicant on several occasions, requesting execution and return of such Declaration for filing in the Patent Office. Subsequently, on June 4, 2004 the undersigned provided a copy of the above-identified application and unexecuted Declaration directly to the inventor at a vacation location in Florida provided by Dr. Shipp (Exhibit B), requesting execution and return thereof for filing in the Patent Office. In response thereto, Dr. Shipp contacted me via telephone at my office on

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June 8, 2004 and told me that he would not sign the requisite Declaration because he lost money as a result of Surgicon's backrupcy.

The undersigned hereby petitions the Commissioner to allow Roberta Napolitano, trustee of Surgicon, Inc. ("Applicant"), whose mailing address is 350 Fairfield Avenue, Bridgeport, Connecticut 06601, to make application for patent on the above-identified application to avoid irreparable damage and preserve the rights of the Applicant. This Petition is being submitted to obtain a filing date of November 12, 2003.

The return copy of the Notice to file Missing Parts is enclosed. The requisite fee in the amount of \$130.00 as set forth in 37 C.F.R. § 1.17(h) is to be charged to Deposit Account No. 50-1068.

Please grant any extensions of time required to enter this paper and charge any additional required fees to our deposit account 50-1068.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: July 9, 2004

By: 

Thomas H. Martin

Registration No. 34,383

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

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T-801 P.005/013 F-811

OPR/ASSIGNMENTS

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Exhibit A

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MARCH 10, 2003

PTAS

MARTIN & FERRARO, LLP
THOMAS H. MARTIN
14500 AVION PARKWAY, SUITE 300
CHANTILLY, VIRGINIA 20151-1101

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700025460A

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 03/05/2003

REEL/FRAME: 013462/0080
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
SHIPP, JOHN I.

DOC DATE: 01/31/2003

ASSIGNEE:
SURGICON, INC.
400 LONG BEACH BOULEVARD
STRATFORD, CONNECTICUT 06615

SERIAL NUMBER: 60425521
PATENT NUMBER:

FILING DATE: 11/12/2002
ISSUE DATE:

LAZENA MARTIN, EXAMINER
ASSIGNMENT DIVISION
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T-901 P.001

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Fax No.: 703-746-4060

Subject: U.S. Patent Application No. 10/680,973
John I. Shipp et al.

Filed: October 7, 2003

INSTRUMENTS AND METHODS FOR USE IN
LAPAROSCOPIC SURGERY

Attorney Docket No. 115.0024-00000

Customer No. 22882

Confirmation No.: 6060

FROM:

Name: Thomas H. Martin, Esq.

Phone No.: 330-877-2277

No. of Pages (including this): 13

Date: July 9, 2004

Confirmation Copy to Follow: No

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Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Petition Under 37 C.F.R. § 1.47(a) And Statement Of Facts (\$130.00 petition fee charged to Deposit Account No. 50-1068), executed Declaration, Statement Under 37 C.F.R. § 3.73(b) with Notice of Recordation and Assignment (Exhibit A), Power of Attorney, Exhibit B, and the return copy of the Notice of Missing Parts are being facsimile transmitted to the U.S. Patent and Trademark Office on July 9, 2004.

Thomas H. Martin

If there is a problem with this transmission please call Sandy Blackmon at 330-877-1202 or the sender at the number above.

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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: SURGICON, INC.

Application No./Patent No.: 10/758,715 Filed/Issue Date: November 12, 2003

Entitled: SURGICAL LIGATION CLIP

SURGICON, INC. a corporation
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.
The extent (by percentage) of its ownership interest is _____ %
in the patent application/patent identified above by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013582, Frame 0080, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
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3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

July 2, 2004
Date
(203) 333-1177
Telephone number

Rebecca Napellanni
Typed or printed name
[Signature]
Signature

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to be (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is exempted to allow 12 months to complete, including gathering, preparing, and submitting the completed application form to the USPTO. This will vary depending upon the individual case. Any comments on the amount of time you require to complete our form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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T-801 P.004/013 F-811



Attorney Docket No. 115.0023-00000

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that: my residence, post office address and citizenship are stated below next to my name; I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: IMPROVED SURGICAL LIGATION CLIP, the specification of which ☐ is attached and/or ☒ was filed on November 12, 2003 as United States Application Serial No. 10/206,715 or PCT International Application No. _____ and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment (referred to above). I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate or § 365(a) of any PCT International application(s) designating at least one country other than the United States, listed below and have also identified below, any foreign application(s) for patent or inventor's certificate, or any PCT International application(s) having a filing date before that of the application(s) of which priority is claimed:

Country	Application Number	Date of Filing	Priority Claimed Under 35 U.S.C. 119	
			<input type="checkbox"/> YES	<input type="checkbox"/> NO
			<input type="checkbox"/> YES	<input type="checkbox"/> NO

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing
60/426,521	November 12, 2002

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT International application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application(s) in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application(s) and the national or PCT international filing date of this application:

Application Number	Date of Filing	Status (Patented, Pending, Abandoned)

I hereby appoint the following attorney and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith: MARTIN & FERRARO LLP, Thomas H. Martin, Registration No. 34,383; Amanda F. Ferraro, Registration No. 37,129; and 1004 M. Martin, Registration No. 42,844. Please address all correspondence to:

Customer No. 22882
MARTIN & FERRARO LLP
 1557 Lake O'Pines Street, NE
 Marietta, Ohio 44632
 Telephone No. (330) 877-0700.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full Name of First Inventor John L Shipp	Inventor's Signature <i>John L Shipp</i> State of Oregon, Inc.	Date 7/2/04
Residence Jacksonville Beach, Florida	Citizenship United States	
Post Office Address 1221 1st Street South, Unit 7A, Jacksonville Beach, Florida 32250		

MARTIN & FERRARO, LLP

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PATENT

Attorney Docket No. 115,0023-00000

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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John I. Shipp
Serial No.: 10/708,715
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Group Art Unit: 3731

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P.O. Box 1450
Alexandria, VA 22313-1450

Sir,

POWER OF ATTORNEY

Applicant, SURGICON, INC., hereby grants their power of attorney to MARTIN & FERRARO, LLP, Thomas H. Martin, Reg. No. 34,383; Amedeo F. Ferraro, Reg. No. 37,129; and Todd M. Martin, Reg. No. 42,844; both jointly and separately as their attorneys with full power to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and to receive the Letters Patent.

Please send all future correspondence concerning this application to Martin & Ferraro, LLP at the following address:

Martin & Ferraro, LLP
1557 Lake O'Pines Street, NE
Hartsville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

Date:

July 2, 2004

Roberta Napolitano
Trustee of SURGICON, INC.

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